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DISCRIMINATION AGAINST INDIGENOUS PEOPLES

Protection of the heritage of indigenous people

Supplementary report of the Special-Rapporteur, Mrs. Erica-Irene Daes, submitted pursuant to Sub-Commission resolution 1995/40 and Commission on Human Rights resolution 1996/63

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Introduction

1. In accordance with Sub-Commission resolution 1993/44 of 26 August 1993, and Commission on Human Rights decision 1994/105 of 4 March 1994, the Special Rapporteur submitted a preliminary report on protection of the heritage of indigenous people (E/CN.4/Sub.2/1994/31) to the Sub-Commission at its forty-sixth session, including draft guidelines and principles.

2. As requested by the Sub-Commission in its resolution 1994/48 of 26 August 1994, the Special Rapporteur submitted her final report (E/CN.4/Sub.2/1995/26) to the Sub-Commission at its forty-seventh session, reflecting the comments which had been made by Governments, intergovernmental and non-governmental organizations, as well as by organizations of indigenous people.

3. The Sub-Commission, in its resolution 1995/40 of 25 August 1995, endorsed by Commission resolution 1996/63 of 23 April 1996, requested the Special Rapporteur to prepare a supplementary report taking account of additional comments and information received from Governments, intergovernmental and non-governmental organizations, or from organizations of indigenous people, as well as any relevant activities undertaken in other forums, and the relevant provisions of international instruments relating to the protection of the global environment.

4. The Special Rapporteur has received additional comments from the Governments of Canada and New Zealand, the United Nations Educational, Scientific and Cultural Organization (UNESCO), the World Intellectual Property Organization (WIPO), and from two organizations of indigenous people, the International Indian Treaty Council and Movimiento "Tupay Katari".

5. It will be recalled that in response to an earlier communication, the World Intellectual Property Organization (WIPO) maintained that the activities of WIPO did not include the question of the protection of the heritage of indigenous peoples, and requested that references to WIPO be deleted from the draft principles and guidelines prepared by the Special Rapporteur. The Special Rapporteur again invited WIPO to comment on her final report, and was pleased to learn that, subject to the approval of the WIPO Governing Body which will meet in September 1996, WIPO now foresees organizing an international symposium on the preservation and legal protection of folklore, probably early in 1997, in cooperation with UNESCO.

6. In a letter dated 27 February 1996, the World Trade Organization stated that it "has not undertaken any activity related to this issue, which is not within its area of responsibility, and we therefore have no contribution to offer".

7. UNESCO advised the Special Rapporteur that it had established an intersectoral task force to deal with matters concerning indigenous peoples, coordinated by Mme. Lourdes Arizpe, UNESCO Assistant Director-General for Culture. UNESCO had moreover arranged to bring the final report of the Special Rapporteur to the attention of the ninth session of the

Intergovernmental Committee for the Promotion of the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation, to be convened in Paris from 16 to 19 September 1996.

8. UNESCO furthermore proposed that it would be the appropriate body to undertake the "comprehensive annual report" described in paragraph 55 of the draft principles and guidelines contained in the final report of the Special Rapporteur. It could be contained in a special chapter in the biennial reports on the state of culture, which UNESCO planned to prepare in the future.

I. SUMMARY AND ANALYSIS OF SUBSTANTIVE COMMENTS

Comments received from Governments

9. The Government of New Zealand described the final report prepared by the Special Rapporteur as a helpful contribution to alleviating the concerns of indigenous people over the protection of their cultural heritage, an objective which that Government could support. Future work could best be directed to an evaluation of the existing international machinery for the protection of intellectual and cultural property. A preliminary study along those lines, currently being undertaken in New Zealand, indicated that the current legal framework presented problems, such as the requirement of "novelty", an emphasis on individual owners rather than collective ownership, and limited periods of protection.

10. The Government of Canada indicated that it supported in principle the efforts of the Special Rapporteur to develop ways of strengthening respect for the heritage of indigenous people. They could include the use of education to help preserve, protect and promote the languages, cultures and heritage of indigenous people, and the use of distinctive labels or marks to ensure the authenticity of indigenous artistic and literary works. The Government of Canada emphasized the importance of consulting with indigenous communities, scholars, scientists, business and industry before adopting any specific national measures. Priority should be given to examining ways of using existing national laws more effectively.

11. According to the Government of Canada, careful thought should be given to striking a balance between the interests of indigenous people and artistic freedom. Moreover, allowing indigenous people to revoke their consent to the use of their heritage, or to reassert rights to elements of their heritage which have already passed into widespread public use, could have an adverse impact on science, medicine and art. The financial implications of imposing additional responsibilities on the United Nations system should also be considered.

12. The Governments of Canada and New Zealand noted that the possible application of intellectual property law to the heritage of indigenous people was already under study by a number of intergovernmental bodies, including the working group established by the Commission on Human Rights in its resolution 1995/32, and it would seem prudent to await the outcome of those deliberations. In the view of the Government of Canada, the working group of

the Commission was also the proper forum to address issues such as the right to self-determination, and the right of indigenous people to their traditional "territories".

13. The Special Rapporteur is grateful for the serious attention given to her work by the Governments of Canada and New Zealand. The remarks of both Governments have contributed significantly to an understanding of the complex institutional and legal issues which must be addressed, before the heritage of indigenous people can be protected fully.

14. Although the Special Rapporteur looks forward with great interest to the results of the preliminary study to which the Government of New Zealand referred, and appreciates the suggestions for her further work made by the Government of Canada, she would like to draw the attention of those Governments to the critical analysis of existing intellectual property machinery contained in her own study (E/CN.4/Sub.2/1993/28, paras. 128-148). She would be grateful for government responses to the specific conclusions of law and policy which she has already placed before them.

15. The Special Rapporteur is unable to agree that efforts to develop standards for protecting the heritage of indigenous people must await the outcome of discussions in other forums. As noted above, WIPO and WTO have been reluctant to claim any special competence in this field. As described in section II below, intergovernmental bodies concerned with the environment are at a far more preliminary stage of analysis of the rights of indigenous people, than the Sub-Commission. It is difficult to understand why the Sub-Commission should suspend its efforts, rather than assuming a leadership role in relation to other bodies and organs of the international system.

16. There can be no doubt that the protection of cultural rights and intellectual property fall within the mandate of the Sub-Commission and the Commission on Human Rights in the light of article 27 of the Universal Declaration of Human Rights, article 15 of the International Covenant on Economic, Social and Cultural Rights and, in the view of the Special Rapporteur, article 17 of the International Covenant on Civil and Political Rights. Accordingly, it is proper for the Sub-Commission to advise the Commission as to how these universally recognized principles of human rights should best be interpreted and applied in particular contexts, such as the context of indigenous peoples. The Sub-Commission would naturally be wise to seek the cooperation of other interested United Nations bodies, as it has in the field of human rights and the environment, but its own judgement is not subordinate to the opinions of expert bodies in other fields.

17. Similarly, the Special Rapporteur does not understand the need to await the review of the draft declaration on the rights of indigenous peoples by the working group established in accordance with Commission resolution 1995/32. While articles 12 and 29 of the draft declaration address the heritage of indigenous peoples, they do so in very general terms, and the Special Rapporteur believes that the working group of the Commission would benefit from the advice of the Sub-Commission as to the practical implications of these draft articles. As an observer at the first session of the working group, furthermore, the Special Rapporteur did not hear any objections to the basic principles contained in either draft article.

18. In any event, articles 12 and 29 of the draft declaration on the rights of indigenous peoples reflect general principles which have already been adopted in a number of recent conventions for the protection of the environment, as described in section II, below. In the opinion of the Special Rapporteur, the fundamental right of indigenous peoples to the protection and enjoyment of their heritage has already been given international recognition, both in the human rights instruments cited in paragraph 14 above, and in conventions on the environment that make express references to indigenous communities. For these reasons, the Special Rapporteur believes that there is an ample legal basis for the Sub-Commission to proceed with the adoption of guidelines relating to the implementation of that fundamental right.

19. With respect to the important substantive comments on the revised draft guidelines made by the Government of Canada, summarized above in paragraph 9, the Special Rapporteur observes, first, that the issue of artistic freedom and freedom of expression was addressed in her final report (E/CN.4/Sub.2/1995/26, paras. 21-22), which explained that the same kind of balance must be struck with respect to the principles of privacy, security of home and family and private property. Artistic freedom and freedom of expression are not absolute or unlimited rights, either in national legal systems, or under international human rights instruments. Regarding the revocability of consent, the Special Rapporteur conceives that draft principles 5 and 9 have the effect of creating a presumption against the extinguishing of the rights of indigenous peoples to elements of their heritage. If informed consent has demonstrably been given, it would be revocable in accordance with the explicit terms of the agreement, as in the case of any other contract.

20. On the issue of retroactivity, the effect of the draft principles and guidelines would not be the automatic nullification of every past consent by indigenous peoples, but rather to subject previous consent to careful scrutiny. If a museum argued that it had obtained a sacred object or artifact with the informed consent of the indigenous people concerned, for example, the existence of consent would become an issue of fact and the museum would naturally be entitled to defend its own position. The Special Rapporteur trusts that the Government of Canada was not concerned, when it referred to retroactivity, with compelling museums or other institutions to return materials which were acquired in the past by force, fraud, or deception.

Comments made by specialized agencies

21. UNESCO expressed concern at the possible adverse consequences of the compilation of a confidential list of sacred sites, and suggested that the recommendation of the Special Rapporteur in that regard should be studied thoroughly. The Special Rapporteur would welcome such a study in collaboration with UNESCO, with the participation of experts chosen by indigenous peoples, as well as experts familiar with the schemes for the protection of sacred sites in Australia and the United States to which she referred in her original study. The Special Rapporteur also notes in this regard that the University of Manitoba (Canada) will convene a special conference on sacred sites from 24 to 26 October 1996 in Winnipeg, with nearly 30 indigenous and academic experts from North America, New Zealand and Australia.

22. UNESCO referred to the Convention on Stolen or Illegally Exported Cultural Objects 1995, adopted by the International Institute for the Unification of Private Law (UNIDROIT). During the negotiation of the text of that instrument, according to UNESCO, those States which had major collections of artworks and cultural artifacts conditioned their participation on the understanding that the Convention would not have a retroactive effect. The special circumstances of indigenous people might justify different treatment in that respect, but any text should be preceded by careful study and expert preparation.

Comments received from indigenous peoples

23. The Movimiento "Tupay Katari" proposed the following additions to the draft guidelines and principles:

> "Indigenous people have the right to effective legal protection of their intellectual property and folklore against any illicit use, or national or international piracy of their material culture, as well as any imitations, distortions, or adulteration of their traditional indigenous artistic heritage.
>
> "In accordance with the Model Treaty on the Protection of Expressions of Folklore against Illicit Exploitation, which was elaborated by UNESCO and WIPO, States recognize as the permanent traditional artistic heritage of indigenous communities, the body of artistic works created within indigenous territories by anonymous authors, and transmitted from generation to generation. The legal protection granted by this Declaration applies to:
>
> (1) Oral expressions such as folktales, legends, poetry and riddles;
>
> (2) Musical expressions such as songs and instrumental folk music;
>
> (3) Physical expressions such as folk dances, plays and ceremonies;
>
> (4) Tangible expressions such as drawings, paintings, sculptures, pottery, woodwork, jewelry, and basketry;
>
> (5) Musical instruments and architectural works".

24. The treaty to which the Movimiento "Tupay Katari" refers is found in the report of the Group of Experts on the International Protection of Expressions of Folklore by Intellectual Property, convened in 1984 by UNESCO and WIPO. 1/ It should be noted that this instrument has not been adopted or come into force, although it is extremely useful as a source of ideas for legal principles and machinery, and indeed was one of the sources used by the Special Rapporteur in preparing her study.

25. The Special Rapporteur is extremely grateful for the suggestions made by the Movimiento "Tupay Katari," and will give them her careful consideration in any further revision of the draft guidelines.

26. The International Indian Treaty Council informed the Special Rapporteur about its efforts to collaborate with the Everhart Museum, in Scranton, Pennsylvania, United States of America, in returning the mummified remains of an indigenous person to Peru and other human remains to Ecuador.

27. The Special Rapporteur notes that in May 1996, there were reports in The New York Times that the mummified remains of another indigenous person, recently unearthed in Peru, had in fact been placed on display at the offices of the National Geographic Society in Washington, D.C., over the protests of indigenous people and scholars in Peru.

Other relevant information received

28. The Beijing Declaration of Indigenous Women, issued by all of the indigenous women attending the NGO Forum at the Fourth World Conference on Women, demands that the World Trade Organization recognize the intellectual and cultural rights of indigenous peoples, and opposes the privatization, commoditization or commercialization of the heritage of indigenous peoples. The Declaration also calls for a prohibition of the patenting of life forms, and for the condemnation and cessation of the Human Genome Diversity Project.

29. The Special Rapporteur has previously referred to the Declaration adopted by the World Conference on Indigenous Peoples on Territory, Environment and Development, held at Kari-Oca Village, Brazil from 25 to 31 May 1992. The Kari-Oca Declaration demands, inter-alia, the return of the human remains and artifacts of indigenous peoples; the protection of sacred and ceremonial sites under national and international legal instruments; the protection of indigenous languages; respect for the right of indigenous peoples to control tourism; and recognition that traditional knowledge cannot be separated from control of territories.

30. The Special Rapporteur would also like to draw special attention to the Manila Declaration on the World Decade for Cultural Development adopted by participants in the International Festival and Conference on Indigenous and Traditional Cultures held in Manila, Philippines, from 22 to 27 November 1988. The Manila Declaration recognizes the right of indigenous communities to preserve and develop their own "cultural traditions", and to receive protection for their traditional cultural expressions from "exploitation or debasement". The participants also called for the documentation of the arts, cultures and customary laws of the indigenous communities in the Philippines, and for the creation of a special national commission to authenticate such documentation in cooperation with indigenous leaders.

II. RELEVANT ASPECTS OF RECENT ENVIRONMENTAL TREATIES

31. In her study, the Special Rapporteur referred to the recognition, by the United Nations Conference on Environment and Development, of a need to protect the traditional ecological knowledge and conservation practices of indigenous peoples. 2/ This need has now been addressed in several major conventions on

the protection of the global environment, albeit in terms considerably more general than the final report of the Special Rapporteur. There now exists a strong basis, in international conventional law, for concrete measures at the international, regional and national levels, to protect the heritage of indigenous peoples, in particular the economic, social, cultural, and spiritual relationships which exist between indigenous peoples and their ancestral territories and resources.

Convention on Biological Diversity

32. The Convention on Biological Diversity was opened for signature at the United Nations Conference on Environment and Development on 5 June 1992, and entered into force on 29 December 1993. The Convention has thus far been ratified by 134 States. Implementation is entrusted to the Executive Secretary of the Convention, under the direction of the Conference of the Parties. The Executive Secretary is serviced by the United Nations Environment Programme (UNEP), which has established a special office in Montreal for this purpose.

33. Article 8 (j) of the Convention provides that, subject to national legislation, each State Party shall:

> "... respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices".

34. Article 10 (c) of the Convention provides, furthermore, that each State Party shall "protect and encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements".

35. In its decision II/12, the Second Conference of the Parties, held from 6 to 17 November 1995, requested the Executive Secretary to explore "the relationship between the objectives of the Convention on Biological Diversity and the TRIPs [Trade-Related Intellectual Property Rights] Agreement" in cooperation with the World Trade Organization and in consultation with "all stakeholders, in particular the private sector and indigenous and local communities". Particular attention should be given to:

> "exploring the relationship between intellectual property rights and the preservation and maintenance of traditional knowledge and practices of indigenous and local communities and the possible role of intellectual property rights in encouraging the equitable sharing of benefits arising from such knowledge and practices".

Convention on Desertification

36. The United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in

Africa, was opened for signature on 14 and 15 October 1994. Article 17.1 (c) of the Convention requires State Parties to respect, protect and utilize traditional and local knowledge and conservational practices, in terms that are similar to article 8 (j) of the Convention on Biological Diversity.

37. In particular, article 18.2 of the Convention on Desertification commits State Parties to compile information on traditional knowledge and practices, with the participation of local populations; to promote the integration of traditional knowledge with modern technologies; and to ensure that local populations benefit directly, and equitably, from any dissemination or commercial development of their knowledge.

Intergovernmental Panel on Forests

38. The Commission on Sustainable Development was established, inter-alia, to monitor global progress in the implementation of the principles and programme of action adopted by the United Nations Conference on Environment and Development. 3/

39. In its decision 1995/226 the Economic and Social Council approved the establishment of an open-ended, ad hoc Intergovernmental Panel on Forests (IPF), under the supervision of the Commission on Sustainable Development, to pursue a consensus on the conservation and sustainable development of forests. At its first session, held from 11 to 15 September 1995, IPF adopted programme element 1.3 of its programme of work:

> "Consistent with the terms of the Convention on Biological Diversity, encourage countries to consider ways and means for the effective protection and use of traditional forest-related knowledge, innovations and practices of forest-dwellers, indigenous people and local communities, as well as fair and equitable sharing of benefits arising from such knowledge, innovations and practices".

40. In its decision II/9, the Second Conference of the Parties to the Convention on Biological Diversity requested the Executive Secretary of the Convention to "provide advice and information pertaining to the relationship between indigenous and local communities and forests" to IPF. The Executive Secretary issued a progress report in January 1996, entitled "Indigenous and local communities and forests", which in paragraph 12, underscores the emergence of scientific evidence that, inter-alia:

(a) The language, culture and knowledge of indigenous and local communities are disappearing at alarming rates;

(b) Many presumed "natural" ecosystems or "wilderness" areas are in fact "human or cultural landscapes" resulting from millennial interactions with forest-dwellers;

(c) Traditional knowledge is complex, sophisticated, and critically relevant to understanding how to conserve forest ecosystems and to use them sustainably.

41. The progress report of the Executive Secretary concluded that the protection and utilization of traditional knowledge would depend on the support given to indigenous peoples to document, evaluate and utilize their own systems of knowledge (para. 15). It also concluded that recognition of the "rights" of indigenous people to their traditional knowledge "would enable commitments made by countries under human rights conventions, covenants and agreements to be harmonized at the national level with international commitments on environment, development, and trade" (para. 14).

42. The above-mentioned report was considered at the second session of IPF, held from 11 to 22 March 1996 in Geneva, together with a background report prepared at the request of IPF by the Secretary-General of the United Nations. 4/ IPF decided to pursue, at its third session, to be held from 9 to 20 September 1996 in Geneva, a substantive discussion of:

> "Ways and means to ensure effective protection of indigenous rights and payment of royalties on intellectual property rights in the context of national legislation, and to ensure the fair and equitable sharing of benefits, involving local communities and forest dwellers, including ways to determine clearly which individuals belonged to which group". 5/

43. The progress report of the Executive Secretary of the Convention on Biological Diversity report will also be considered at the Third Meeting of the Parties to the Convention, to be held from 4 to 15 November 1996 at Buenos Aires.

Plant genetic resources

44. The Commission on Genetic Resources for Food and Agriculture of the United Nations Food and Agriculture Organization (FAO) is engaged in drafting a Global Plan of Action, and an International Undertaking, regarding the conservation and utilization of plant genetic diversity. The second extraordinary session of the Commission (22-27 April 1996) discussed, inter alia, the role of indigenous peoples and communities in the in situ conservation of plant genetic diversity. The Legal Counsel for FAO advised the Commission to harmonize its drafting with the relevant provisions of the Convention on Biological Diversity. A third extraordinary session of the Commission is planned for December 1996.

45. The role of indigenous peoples in conserving genetic resources is likely to be discussed further at the Fourth International Technical Conference on Plant Genetic Resources, to be held from 17 to 23 June 1996 in Leipzig.

III. IMPLICATIONS OF RECENT TRADE AGREEMENTS

46. Adopted on 15 April 1994, the Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations created the World Trade Organization (WTO). The Final Act also includes an Agreement on Trade-Related Aspects of Intellectual Property Rights ("TRIPs"). Each Member State of the WTO must accord to the nationals of other Members, treatment with respect to the protection of intellectual property that is no less favourable than that

it accords to its own nationals (art.3). The Agreement moreover fixes certain minimum levels of protection for patents, industrial designs and other forms of intellectual property.

47. Member States may continue to provide "more extensive protection than is required by this Agreement" in national legislation, "provided that such protection does not contravene the provisions of this Agreement" (art. 1.1). Member States also retain full authority to make laws they "deem necessary" to protect public health and nutrition, and to promote the public interest in sectors of vital importance to their socio-economic and technological development" (art. 8).

48. In accordance with article 27 of the Agreement, State Members may furthermore deny patents to:

> "inventions, the prevention within their territory of the commercial exploitation of which is necessary to protect ordre public or morality, including to protect human, animal or plant life or health or to avoid serious prejudice to the environment;"
>
> "diagnostic, therapeutic and surgical methods for the treatment of humans or animals;" and
>
> "plants and animals other than micro-organisms, and essentially biological processes for the production of plants or animals other than non-biological and microbiological processes," provided that some form of legal protection is extended to plant varieties.

49. In the opinion of the Special Rapporteur, articles 1 and 8 of the TRIPs Agreement permit Member States to give greater protection to the heritage of indigenous peoples, under their national legislation, than they are required to give to intellectual property generally - provided that they afford the same special protection to indigenous peoples who are nationals of other States. Moreover, article 27 appears to permit Member States, if they so wish, to exclude the traditional ecological and medical knowledge of indigenous peoples from patentability. Hence States could implement the Principles and Guidelines for Protection of the Heritage of Indigenous Peoples, consistent with their obligations under the TRIPs Agreement.

50. The Special Rapporteur would like to draw particular attention to article 39.2 of the TRIPs Agreement:

> "Natural and legal persons shall have the possibility of preventing information lawfully within their control from being disclosed to, acquired by, or used by others without their consent in a manner contrary to honest commercial practices as long as such information:
>
> (a) is secret in the sense that it is not, as a body or in the precise configuration of assembly of its components, generally known among or readily accessible to persons within the circles that normally deal with the kind of information in question;

(b) has commercial value because it is secret; and

(c) has been subject to reasonable steps under the circumstances, by the person lawfully in control of the information, to keep it secret."

51. All Member States must accordingly adopt laws for the protection of information which is undisclosed, and has commercial value, even if it is not eligible for copyright or patent protection. This provision of the TRIPs Agreement is broader than the concepts of "trade secrets" and "know-how", which the Special Rapporteur discussed in her original study. It is broad enough to cover most of the teachings, ceremonies, songs, dances and designs that indigenous peoples consider sacred and confidential and are currently threatened by commercial exploitation. The Special Rapporteur is therefore drawn to the conclusion that States Members of the WTO are required to provide protection, under national legislation, for those elements of the heritage of indigenous peoples which the peoples concerned choose to remain confidential.

IV. ADDITIONAL CONCLUSION AND RECOMMENDATIONS

52. For the reasons outlined above, the Special Rapporteur concludes that the measures she has proposed for the protection of the heritage of indigenous peoples are permitted, and to a large extent required by recently-adopted international instruments in the fields of trade and the environment, in particular the Convention on Biological Diversity and the Agreement on Trade-Related Intellectual Property Rights.

53. In this regard, the Special Rapporteur underscores the conclusion of the Executive Secretary of the Convention on Biological Diversity, quoted above (para. 37), that recognizing the rights of indigenous people to their traditional knowledge is needed to reconcile existing international instruments in the fields of trade, the environment and human rights.

54. The Special Rapporteur welcomes the decision of WIPO to organize, in cooperation with UNESCO, an international symposium on preservation and legal protection of folklore, and expresses the hope that she will be authorized to participate formally in the symposium in her capacity as Special Rapporteur and as a representative of the Sub-Commission.

55. The Special Rapporteur also welcomes the proposal by UNESCO to begin to report biennially on the state of protection of the heritage of indigenous peoples worldwide. She respectfully recommends that the UNESCO intersectoral task force on indigenous peoples convene, at the earliest possible opportunity, a technical conference with indigenous educators, scientists and artists, to define the methodology that will be used to collect and evaluate information for future UNESCO reports.

56. The Special Rapporteur is greatly encouraged by the high priority given to protection of the traditional knowledge of indigenous peoples by the Parties to the Convention on Biological Diversity, and welcomes the technical work that is being undertaken by the Executive Secretary of the Convention. She respectfully requests the Parties to consider, as a matter of urgency,

providing the Executive Secretary with funding to enter into research collaboration with educational and scientific institutions that work with and are accountable to indigenous peoples and communities.

57. As the present supplemental report makes clear, parallel efforts to reach an intergovernmental consensus on protection of the heritage of indigenous peoples are under way in several different United Nations organs and specialized agencies. There is an obvious and urgent need for communication and coordination to ensure consistent and mutually reinforcing results. A possible solution would be for a member of the Working Group on Indigenous Populations to be entrusted, with the approval of the Economic and Social Council, with a continuing mandate to exchange information with all parts of the United Nations system concerned with these issues, to facilitate cooperation and coordination, to promote the greatest level of participation by indigenous people in these efforts, and to report, as appropriate, through the Sub-Commission and the Commission to the Economic and Social Council.

58. The full and effective participation of indigenous people in the work of all relevant intergovernmental bodies is absolutely essential. As the number of forums concerned with these issues grows, however, the ability of indigenous organizations and communities to bear the costs of regular, effective participation will continue to decline. States must give urgent and serious consideration to providing special funds for the participation of indigenous people in relevant international meetings, in particular those meetings organized under the auspices of the Commission on Sustainable Development, the Conferences of Parties to the Convention on Biological Diversity, and UNESCO.

Notes

1/ UNESCO/WIPO/FOLK/GEI.1/2 (19 October 1984).

2/ E/CN.4/Sub.2/1993/28, para. 151; A/CONF.151/26/Rev.1 (Vol. I), paras. 15.4 (g), 16.7 (b), 16.39 (a), 17.75 (b), 17.82 (c) and 26.4 (b).

3/ General Assembly resolution 47/191 of 22 December 1992, para. 3 (a).

4/ E/CN.17/IPF/1996/9.

5/ "Report of the Ad Hoc Intergovernmental Panel on Forests on its second session", E/CN.17/1996/24, para. 89 (f).